

**RECOMMENDATIONS TO THE PROFESSIONALISM COMMISSION  
FROM THE  
SUBCOMMITTEE ON DISCOVERY ABUSE ISSUES, INCLUDING THE USE OF  
DISCOVERY MASTERS**

**August 24, 2005**

In continuation of this Committee's effort we now submit the following  
recommendations for review, consideration and approval by the Commission:

- 1) Publication by the Court of Appeals of the conclusion of this Commission that there is an identified state wide problem regarding discovery and the resolution of disputes arising there from.
- 2) Adoption of the *Discovery Guidelines* after revision.
- 3) Reconsideration and republication of *Maryland Discovery Opinions* under the imprimatur of the Court of Appeals.
- 4) Creation of a website to compile discovery information, procedures and trial opinions as part of the Maryland Judiciary Homepage for use by practitioners and the Judiciary or Judicial designees..
- 5) Use of additional "Standard" discovery forms or discovery manual with the Court of Appeals approval.
- 6) Maryland Rule change providing for authorization or signed release upon request to obtain documents.
- 7) Use Scheduling Orders and other means to encourage the use of Special Masters pursuant to Rule 2-541(a)(2).
- 8) Change the Maryland Rules regarding Exceptions for recommendations of a designated Discovery Master or Discovery Facilitator to provide immediate access to the Judiciary for a ruling.

- 9) Change the Maryland Rules to specify a more timely response time to Motions to Compel and to allow immediate access to the Judiciary or Judicial designee for opinion.
- 10) Assessment of costs against party in disputes where there is no “substantial justification” for the position on discovery.
- 11) Court of Appeals request to each County Circuit Court Administrative Judge to formulate a discovery protocol designed to see that discovery is completed and issues timely resolved using existing resources, including consideration of the following:
  - a. Discovery Hotline using trained volunteer attorneys. Publication on the Maryland Judiciary Homepage and various Maryland Bar Association materials.
  - b. Where possible in protracted cases assign a specific Judge to handle the case including discovery matters from inception.
  - c. Timely (30 days) Pretrial Discovery Conference in any matter (civil or criminal) with a trial estimate of three days or more.
  - d. Assignment of specific Judge to handle all civil and criminal discovery disputes in the 5 or 6 most populous counties.
  - e. Encourage the use of retired members of the Judiciary to be available to resolve disputes.
  - f. Designation of Discovery Master or Discovery Facilitators to resolve discovery disputes in smaller counties.

Respectfully Submitted.